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No. 84-1452

IN THE
Supreme Court of the United States
OCTOBER TERM, 1984

WISCONSIN'S ENVIRONMENTAL DECADE, INC. and PETER ANDERSON,

Petitioners,

v.

STATE BAR OF WISCONSIN,

Respondent.

PETITIONERS' REPLY BRIEF

ALAN B. MORRISON
(Counsel of Record)
DAVID C. VLADECK

Public Citizen Litigation Group
Suite 700
2000 P Street, N.W.
Washington, D.C. 20036
(202) 785-3704

LEE CULLEN

Cullen, Weston & Pines
20 North Carroll Street
Madison, Wisconsin 53703
(608) 251-0101

Attorneys for Petitioners

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The fundamental goal that petitioners have had from the moment that respondent first accused them of engaging in the unauthorized practice of law was to be sure that their constitutional claims would be heard in federal court. The principal obstacle to achieving that goal was this Court's ruling in *Younger v. Harris,* 401 U.S. 37 (1971), under which petitioners will be required to litigate their constitutional claims in the state courts if respondent files there first.

Despite the fact that petitioners have clearly raised their concerns about *Younger* throughout these proceedings, neither the District Court, the Court of Appeals, nor respondent in its brief in the Court of Appeals even mentioned *Younger,* let alone explained how their positions on the ripeness issue would not lead inexorably to the very result which petitioners have worked so hard to avoid.

Although section 1983 was enacted to enable civil rights plaintiffs such as petitioners to avoid litigating their constitutional claims as defenses to state court law enforcement proceedings, the decision below frustrates that objective. Indeed, even in this Court, where *Younger* is cited in the question presented, respondent once again neglects it entirely, choosing instead to defend the decision below on a basis not ruled on (abstention), rather than the one on which the court relied (ripeness). It is precisely because the courts below failed to take into account the very real dilemma created by *Younger*, as part of the balancing required in a ripeness analysis, that this Court should grant review.

For the foregoing reasons and those set forth in the petition, this Court should grant review of both questions presented.

Respectfully submitted,

ALAN B. MORRISON
(Counsel of Record)
DAVID C. VLADECK

Public Citizen Litigation Group
Suite 700
2000 P Street, N.W.
Washington, D.C. 20036
(202) 785-3704

LEE CULLEN

Cullen, Weston & Pines
20 North Carroll Street
Madison, Wisconsin 53703
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Attorneys for Petitioners

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